Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No. _____

In The Supreme Court of the United States

GROSA DOKIC,
Petitioner,
v.
JOHN ASHCROFT, ATTORNEY GENERAL,
Respondent.

On Petition For A Writ Of Certiorari To The United States Court of Appeals For The Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI
with Appendix

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September, 2004

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QUESTIONS PRESENTED FOR REVIEW

1. Whether Petitioner satisfied her burden of establishing that she suffered past persecution under 8 C.F.R. § 1208.13(b)(1)(i) and is a refugee under section 101(a)(42)(A) of the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101(a)(42)(A), and implementing regulations, where she presented credible evidence that she and her husband were the victims of multiple arrests and beatings and she was the victim of an attempted sexual assault motivated by her and her husband's political activities and nationality.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Grosa Dokic respectfully prays that a writ of certiorari issue to review the opinion and order of the United States Court of Appeals for the Sixth Circuit entered in this case on March 10, 2004 and June 29, 2004, respectively.

OPINIONS BELOW

The opinion of the Immigration Judge (App. C hereto) in unreported. The opinion of the Board of Immigration Appeals (App. D hereto) is unreported. The opinion of the Sixth Circuit Court of Appeals on the merits (App. A hereto), of which review is sought, is unreported. The order of the Sixth Circuit denying the petition for panel rehearing and suggestion of rehearing en banc in such case (App. B hereto) is unreported.

STATEMENT OF JURISDICTION

The judgment of the United States Court of Appeals for the Sixth Circuit (App. A) was entered on March 10, 2004. A timely petition for rehearing was denied on June 29, 2004 (App. B). The jurisdiction of the Supreme Court is invoked under Supreme Court Rule 10(a), in that the Sixth Circuit has entered a decision in conflict with decision of other United States courts of appeal on the same important matter and has sanctioned a decision of the Board of Immigration Appeals that has so far departed from the accepted and usual course of proceedings, as to call for an exercise of this Court's supervisory power.

RELEVANT PROVISIONS INVOLVED

Section 101(a)(42)(A) of the INA, 8 U.S.C. § 1101(a)(42)(A), provides, in relevant part, that a refugee is:

> Any person who is outside any country of such person's nationality ... and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Section 208(b)(1) of the INA, 8 U.S.C. § 1158(b)(1) provides, in relevant part, that:

> The Attorney General may grant asylum to an alien ... if the Attorney General determines that such alien is a refugee within the meaning of section 1101(a)(42)(A) of this title.

STATEMENT

(i) Nature of the Case

This is a petition for review of the decisions of the Immigration Judge, the Board of Immigration Appeals ("BIA"), and the Sixth Circuit Court of Appeals finding that she is not a "refugee" under INA § 101(a)(42)(A), 8 U.S.C. § 1101(a)(42)(A).

(ii) Proceedings at the Immigration Court

Ms. Dokic entered the United States as a nonimmigrant visitor for pleasure on February 8, 1996. On March 4, 1997, she filed an application for asylum with the Immigration and Naturalization Service ("INS")[1]. The INS referred her application to the Immigration Court. The

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[1] The Homeland Security Act abolished the INS effective March 1, 2003 and transferred its functions to various agencies within the Department of Homeland Security. Pub. L. No. 107-296, 116 Stat. 2135, 2192. The BIA and the Immigration Court remain part of the Department of Justice. This petition refers to the INS with respect to actions it took during its existence and to the appropriate agencies for events occurring after March 1, 2003.

Immigration Judge ("IJ"), after finding that Ms. Dokic offered credible testimony, denied her application for asylum.

(iii) Proceedings at the Board of Immigration Appeals

Ms. Dokic filed a timely notice of appeal to the BIA detailing allegations of error in the IJ's ruling. The INS filed a brief in opposition to her appeal. On December 16, 2002, the BIA adopted the decision of the IJ and denied her appeal. Ms. Dokic filed a timely petition for review with the Sixth Circuit Court of Appeals.

(iv) Statement of Facts

Ms. Dokic is a 42-year-old native and citizen of Serbia and Montenegro who was admitted to the United States on February 8, 1996 as a nonimmigrant visitor. She filed an asylum application with the INS on March 4, 1997.

On June 16, 1997, the INS referred Ms. Dokic's asylum application to the Immigration Court and charged her as being removable for having remained in the United States after her visa expired on August 7, 1996, in violation of INA § 237(a)(1)(B), 8 U.S.C. § 1227(a)(1)(B). On August 27,

1997, Ms. Dokic conceded removability and renewed her application for asylum.

On November 30, 1998, Ms. Dokic testified credibly in support of her application. She is an ethnic Albanian raised in Drume, Yugoslavia. While attending the College of Pristina in Kosovo, she helped organize demonstrations in support of equal rights for ethnic Albanians.

Twice in 1983, Yugoslavian police arrested and beat her for taking part in these demonstrations. Following the second arrest, the school expelled her. When she returned home to Drume, the police placed her under surveillance.

In 1988, for taking part in a pro-Albanian demonstration in Titograd, she was detained for three days. In jail, the guards beat her often and denied her food.

Her husband also suffered because of her political activism. He was arrested and detained for three days in 1994 because he did not have his identification card. When the police came to their house looking for her husband, they beat her up because she did not know where he was.

In 1996, Ms. Dokic was walking home with one of her friends. Several Serbian men approached them and grabbed

Ms. Dokic. Ms. Dokic broke free and ran, but the Serbians caught and raped her friend.

After Ms. Dokic came to the United States, she learned that Yugoslavian police took her husband to an unknown location. At the time of Ms. Dokic's hearing, her husband had been held for at least six months.

The IJ held that Ms. Dokic testified credibly. The IJ denied Ms. Dokic's asylum application but granted her the alternative relief of voluntary departure. On December 16, 2002, following a timely appeal, the BIA adopted the decision of the IJ.

(v) Statement of Court of Appeals and Supreme Court Jurisdiction

Jurisdiction in the Sixth Circuit Court of Appeals was proper. INA § 242(a)(2)(B)(ii), 8 U.S.C. § 1252(a)(2)(B)(ii). Venue was proper in the Sixth Circuit because an IJ sitting in Detroit, Michigan completed the Immigration Court proceedings. INA § 242(b)(2), 8 U.S.C. § 1252(b)(2).

Petitioner invokes the jurisdiction of this Court on application for writ of certiorari under Supreme Court Rule 10(a), in that the Sixth Circuit has entered a decision in

conflict with decision of other United States courts of appeal on the same important matter and has sanctioned a decision of the BIA that has so far departed from the accepted and usual course of proceedings, as to call for an exercise of this Court's supervisory power.

REASONS FOR GRANTING THE WRIT

I. The incidents of detention, beatings, and attempted sexual assault credibly testified to by Petitioner amount to past persecution entitling her to a presumption of a well-founded fear of persecution.

The Sixth Circuit decision affirming the denial of Ms. Dokic's asylum application is contrary to well-established American and international asylum law. The incidents of persecution, including arrests, beatings, and an attempted sexual assault, were committed against her because of her Albanian ethnicity and her active participations in the Albanian human rights movement. These acts of persecution are severe enough to qualify as "past persecution," entitling her to a presumption that she has a well-founded fear of future persecution in Serbia and Montenegro. *See* 8 C.F.R. § 1208.13(b)(1)(i).

A refugee is an alien who is unable or unwilling to return to her home country "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." INA § 101(a)(42)(A), 8 U.S.C. § 1101(a)(42)(A). The Attorney General has the discretion to

grant asylum to a refugee. INA § 208(b)(1), 8 U.S.C. § 1158(b)(1).

An asylum applicant bears the burden of establishing that he qualifies as a refugee "either because he has suffered actual past persecution or because he has a well-founded fear of future persecution." 8 C.F.R. § 1208.13(b). The applicant's credible testimony "may be sufficient to sustain the burden of proof without corroboration." 8 C.F.R.§ 1208.13(a).

The alien does not have to show that she will "probably" be persecuted. INS v. Cardoza-Fonseca, 480 U.S. 421, 431, 107 S. Ct. 1207, 1213, 94 L. Ed. 2d 434 (1987). An alien can have a well-founded fear of persecution where there is as little as a one in ten chance of an event happening. Id.

An applicant who satisfies her burden of establishing past persecution is presumed to have a well-founded fear of persecution. 8 C.F.R. § 1208.13(b)(1)(i). The Department of Homeland Security ("DHS") may rebut that presumption by establishing, through a preponderance of the evidence, that since the persecution occurred, conditions in the applicant's country "have changed to such an extent that the applicant no longer has a well-founded fear of being persecuted were he to

return." Id. The DHS must "do more than show that circumstances in the country have fundamentally changed; the [DHS] must also show that such change negates the particular applicant's well-founded fear of persecution." Ouda v. Ashcroft, 324 F.3d 445, 452 (6th Cir. 2003). The applicant must also have an opportunity to rebut this evidence. Gonzalez v. INS, 82 F.3d 903, 912 (9th Cir. 1996).

There is a "lengthy and grisly documentation of the numerous atrocities committed against ethnic Albanians" in the former Yugoslavia. Hoxha v. Ashcroft, 319 F.3d 1179, 1183 (9th Cir. 2003); see also Begzatowski v. INS, 278 F.3d 665 (7th Cir. 2002); Vujisic v. INS, 224 F.3d 578 (7th Cir. 2000). The record identifies "systematic oppression and flagrant violation of basic rights, as well as numerous cases in which ethnic Albanians were threatened, arrested and beaten." Hoxha, 319 F.3d at 1183. No Albanians were spared the threat of detention, torture, or death. Id. In fact, the amount of persecution against ethnic Albanians was so extensive that the level of individualized risk these asylum applicants must show is "comparatively low." Id. The abuses committed against ethnic Albanians were so

"atrocious," that NATO conducted a four-month bombing campaign in Serbia.

Persecution directed at many members of a protected group lessens, not increases, the burden on an asylum applicant to show harm directed specifically towards that applicant. Baballah v. Ashcroft, 335 F.3d 981, 990 (9th Cir. 2003). In Baballah, the court reversed the BIA's decision denying an Israeli Arab's asylum application. Id. at 992. The court relied on the "severe hostility" and "serious tension" between different ethnic and religious groups in the Middle East and the alien's credible testimony regarding several incidents of persecution directed towards he and his family. Id. at 990-92.

The IJ found Ms. Dokic to be a credible witness, thus, her testimony is deemed true. App. C-5; see Nagoulko v. INS, 333 F.3d 1012, 1016 (9th Cir. 2003). The IJ recognized that her arrests and beatings in 1983 and 1988 were on account of her Albanian ethnicity and political activism. The IJ erred, however, by viewing these incidents in isolation rather than considering the aggregate harm she suffered from the beatings and attempted rape.

As set forth above, Serbian police officers arrested Ms. Dokic twice in 1983 and once in 1988 for her role in organizing and participating in pro-Albanian demonstrations. While in jail on these occasions, the police beat her and denied her food. As a result of her political activism, the police kept her under continued surveillance.

The police also turned their attention to Ms. Dokic's husband, arresting and beating him on two separate occasions in 1994. Following the first arrest, the police came to Ms. Dokic's house to question her about her husband. When she did not answer to their satisfaction, they beat her, breaking her arm. Even after Ms. Dokic came to the United States, her husband was arrested and detained by the Serbian police at an unknown location for at least six months.

In 1996, Ms. Dokic was nearly raped by several Serbian men and her friend, who did not run away quickly enough, was raped. Afterwards, Ms. Dokic fled to the United States.

The harm experienced by Ms. Dokic and her family constitutes past persecution and gives rise to a presumption of a well-founded fear of persecution in Serbia and Montenegro. The threats to her life, forced confinement, and

attempted sexual assault are all forms of persecution. See Shoafera v. INS, 228 F.3d 1070, 1074 (9th Cir. 2000); Chang v. INS, 119 F.3d 1055, 1066 (3rd Cir. 1997).

The DHS did not and cannot rebut this presumption. As the State Department report in the administrative record indicates, Serbia and Montenegro's "poor human rights" record is marked by "numerous, serious abuses including extrajudicial killings, torture, brutal beatings, and arbitrary arrests." The police and security forces often target ethnic Albanians. Ethnic Albanians continued to face persecution and discrimination, including being driven from their homes and denied jobs.

The State Department reports that the ongoing political violence in Serbia and Montenegro resulted from the government's efforts to cleanse itself of ethnic minorities and non-Serbians. At the time of Ms. Dokic's hearing, the Serbian and Montenegrin government was ignoring "international sensibilities" and once again played the "Serb nationalist card used so effectively in the past."

"The international community, including the United States, severely condemned the Serbian military actions in the Balkan republics and the strategy of genocide that went with

it" and NATO conducted a four-month bombing campaign against Serbia in an effort to stop the genocide. Vujisic, 224 F.3d at 581-82. Former Yugoslav President Slobodan Milosevic and many other Yugoslav political and military leaders have been indicted for war crimes for their actions during this period. Id. Even today, many of those responsible for the worst of the ethnic cleansing remain out of custody under the protection of Serbian nationalists and government officials.

"There is simply no room in the United Nations' definition for concluding that because an applicant only has a 10% chance of being shot, tortured, or otherwise persecuted, that he or she has no 'well-founded fear' of the event happening." Cardoza-Fonseca, 480 U.S. at 440, 107 S. Ct. at 1217. If one out of every ten people in Petitioner's situation faces death, torture, and persecution upon her return to Serbia and Montenegro, then Petitioner has a well-founded fear of persecution. To return someone to a country where she has a one in ten chance of being persecuted runs contrary to United States and international asylum law. Id.

CONCLUSION

Petitioner respectfully submits that the Sixth Circuit erred in the following respects:

- Petitioner's credible testimony met her burden of establishing that she was persecution on account of her nationality and political opinion.

- The past persecution suffered by Petitioner gives rise to a presumption that she has a well-founded fear of persecution, a presumption that the government has not rebutted.

Therefore, Petitioner respectfully prays that the Court grant her petition for writ of certiorari, reverse the decision of the Sixth Circuit Court of Appeals and the BIA, hold that Petitioner is a refugee as defined under the Immigration and Nationality Act, and remand for a determination of whether Petitioner merits a grant of asylum as a matter of discretion.

Respectfully Submitted,

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Grosa Dokic
Pro Se

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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ORDER, FILED MARCH 10, 2004

A-1 through A-4

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION
Sixth Circuit Rule 28(g) limits citation to specific situations. Please see Rule 28(g) before citing in a proceeding in a court in the Sixth Circuit. If cited, a copy must be served on other parties and the Court.
This notice is to be permanently displayed if this decision is reproduced.

No. 03-3004

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

GROSA DOKIC,
Petitioner,

v.

JOHN ASHCROFT, ATTORNEY GENERAL,
Respondent.

FILED
March 10, 2004
Leonard Green,
Clerk

Before: **SILER. MOORE, and SUTTON,** Circuit Judges.

Grosa Dokic, a native and citizen of Montenegro, in the former Republic of Yugoslavia, petitions for review of a Board of Immigration Appeals (BIA) order that affirmed the decision of the Immigration Judge (IJ) to deny her application for asylum and withholding of removal. The parties are represented by counsel and have waived oral argument, and

this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

Dokic entered the United States in 1996 as a visitor for pleasure. The Immigration and Naturalization Service began removal proceedings in 1997 because Dokic had overstayed her visa. Dokic conceded removability and applied for asylum, withholding of removal, or in the alternative, voluntary departure. An IJ held a hearing in November 1998. Dokic testified that she was an ethnic Albanian who had been arrested, beaten, interrogated, and threatened because she participated in student demonstrations in the 1980s. She also stated that she was injured by police when her husband was arrested in 1994, and that she and a friend were attacked by Serbian soldiers in 1996. T he IJ denied Dokic asylum and withholding of removal but granted her request for voluntary departure. The BIA affirmed the IJ's decision and Dokic filed a timely petition for review.

In her petition for review, Dokic argues that: (1) the IJ improperly found no past persecution; (2) the IJ improperly denied her application fo asylum; and (3) the BIA did not give proper consideration in its assessment that there have been significant changes in Montenegro and Kosovo.

Initially, we note that Dokic does not argue that she was entitled to withholding of removal. Accordingly, she has

waived this claim for relief. See *Enertech Elec., Inc. v. Mahoning County Comm'rs*, 85 F.3d 257, 259 (6th Cir. 1996).

We review a decision denying asylum to determine whether it is supported by substantial evidence, and may not grant a petition for review merely because we would have decided the case differently. *Mikhailevitch v. INS.*, 146 F.3d 384, 388 (6th Cir. 1998). A petition for review may be granted only if the evidence is so compelling that no reasonable fact-finder could fail to find the requisite fear of persecution. *INS v. Elias-Zacarias*, 502 U.S. 478, 481, 484 (1992).

Upon review, we conclude that the petition for review must be denied because the IJ's and the BIA's findings are supported by substantial evidence. The IJ found that Dokic's arrests in 1983 and 1988 did not amount to persecution, when considered as responses to mass demonstrations. The IJ also concluded that the arrest of Dokic's husband and the rape of her friend did not support her claim for refugee status because these incidents were not based upon Dokic's political opinion. *See* 8 C.F.R. § 208.13(b)(2). Finally, in view of the changed circumstances in Montenegro, the IJ found that Dokic had not established a well-founded fear of future persecution. *See Mikhailevitch,* 146 F.3d at 389. The BIA added that there had been significant improvements in human rights since the end of Milosevic's regime and the creation of a multi-ethnic police force with Albanian support. Thus, although Dokic

endured some hardship because of her political activities in the 1980s, she did not establish that she we entitled to refugee status.

The evidence would not compel a reasonable fact-finder to find the requisite fear of persecution. See Elias-Zacarias, 502 U.S. at 481, 484. For the foregoing reasons, we deny the petition for review.

ENTERED BY ORDER OF THE COURT

/s/ Leonard Green
Clerk

APPENDIX B

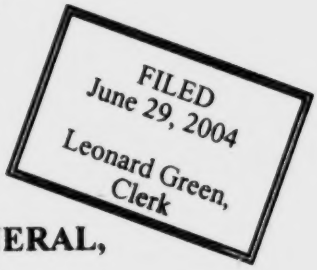
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ORDER, FILED JUNE 29, 2004

B-1 through B-1

No. 03-3004

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



GROSA DOKIC,
Petitioner,

v.

JOHN ASHCROFT, ATTORNEY GENERAL,
Respondent.

BEFORE: SILER, MOORE, and SUTTON,
Circuit Judges.

The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT

/s/ Leonard Green
Leonard Green, Clerk

APPENDIX C

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
DETROIT, MICHIGAN

ORAL DECISION OF THE IMMIGRATION JUDGE,
FILED NOVEMBER 30, 1998

C-1 through C-9

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
DETROIT, MICHIGAN

File No.: A 75 306 294 **November 30, 1998**

FILED
Nov. 30, 1998
U.S. Department of Justice
Immigration Court

In the Matter of

GROSA DOKIC,)
Respondent)

IN DEPORTATION PROCEEDINGS

CHARGE: Section 237 (a)(1)(B) of the Immigration and Nationality Act, remained longer then permitted

APPLICATIONS: Asylum and withholding of deportation, and voluntary departure

ON BEHALF OF RESPONDENT: Mr. Carl Weideman, Esquire

ON BEHALF OF THE SERVICE: Rosario Saavetra, Esquire
Assistant District Counsel

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent, a 37 year old married female, a native and citizen of Yugoslavia. The United States Immigration and Naturalization Service brought these proceedings pursuant to the authority contained in the Immigration and Nationality Act. Proceedings were commenced with the filing of the Notice to Appear with the Immigration Court on July 23, 1997. Exhibit 1.

The respondent admitted as alleged in the Notice to Appear that she's not a citizen or national of the United States, that she's a native of Yugoslavia and a citizen of Yugoslavia, that she has been in the United States at Detroit on or about February 9, 1996, as a visitor and that she remained beyond August 7, 1996, without authorization from the Immigration and Naturalization Service. She further conceded she was removable as charged.

On the basis of these admissions I do find her removability has been established by evidence which is clear and convincing.

The respondent declined to designate a country for deportation and Yugoslavia is directed.

The respondent applied for relief from deportation in the form of asylum. Her application as well be considered as an application for withholding of deportation. In the alternative, she requested voluntary departure.

Her asylum application, Form I-589 is contained in the record, marked as Exhibit 2. And prior to the admission of the application the respondent swore to me that to the best of her knowledge and belief the information contained therein is true. The application was forwarded to the State Department for comment. A response was not received. I have, however, considered the State Department Country Report both of '97 and '96, and then '97 Profile of Serbia Montenegro.

FACTS

The evidence of the hearing consisted of her application, her own testimony, her supplemental declaration, the State Department Country Report of '97, '96 for Serbia Montenegro, and the '97 Profile for Serbia Montenegro from the State Department.

In her written application the respondent indicated she was seeking asylum on the ground of her nationality and political opinion. She thinks that if she returns to Yugoslavia she will be beaten and face the brutality of soldiers. She indicated she had been arrested and detained. In January of 1996 she departed Yugoslavia and she traveled to the United States on a visa of which she overstayed. The overstay has resulted in these proceedings.

Relative to her asylum application, the respondent testified substantially as follows: that she was born in Yugoslavia and is from the small village of Drume, and that she did graduate from high school in Tuzi in 1980. She went to college at the University of Christina in Christina. While at college she did participate at a number of demonstrations and was in fact arrested twice in 1983. Now in 1983 right after her last dissipation in demonstration she was expelled from school. She returned home where a few years later in 1987 she did marry. In 1988 she continued her activity by

participating in a demonstration in Titograd. While at this demonstration, however, she was arrested and jailed for three days where she was beaten, given no food and from the beatings that she was bruised. She described her activity s helping the organizers organize the demonstrations. She indicated as well that she was a member of the democratic party. In 1994 she described that her husband had been arrested twice during that year both for failing to have his passport. And on once occasion the police after arresting him did come to the house where they were there either looking for him or under the pretext to search the house. While in the house she was struck and beaten and the consequence was she broke her wrist. She was unable to obtain proper medical care but did obtain care that resulted in the healing of the wound at an aunt.

In 1996, she describes an incident of which a female friend of her's were walking returning to their homes. When two drunken Serbian soldiers approached them, they started to use "bad words" she described these bad words as wanting to have sex with her. She was frightened, she ran away, the soldiers apparently did rape her friend. Afterwards, they went to the police station for assistance and was told that there was nothing that could be done, that the individuals who did this was just mad. Soon thereafter she applied for and obtained a

visitors visa to the United States resulting in a overstay which prompted these proceedings.

STATEMENT OF THE LAW

The burden is on the respondent to establish that he's eligible for asylum or withholding of deportation.

To qualify for withholding she needs to show that there is a clear probability that her life or freedom would be threatened in the country directed for deportation on account of race, religion, nationality, membership in a particular social group or political opinion. This means she must demonstrate that it's more likely then not that she would be subject to persecution on one of the grounds specified.

To qualify for asylum, she needs to show that she fits within the meaning of the definition of refugee as contained in the Act. This definition includes the requirement that she either suffered past persecution or that she has a well-founded fear of future persecution in her country of nationality or last habitual residence on account of her race, religion, nationality, membership in a particular social group, or political opinion. She must show that there is a subjective fear of persecution, that she has a subjective fear of persecution and that that fear has an objective basis. This objective basis of the well-founded fear of future persecution has been described in the

regulations as "a reasonable possibility of actually suffering such persecution" if the alien were to return to her home country. This objective component must be supported by credible, direct, and specific evidence in the record.

CREDIBILITY

Having the opportunity to observe the applicant and review her prior statement in this case, I do find her to be credible.

ANALYSIS OF FINDINGS

However, even taking her testimony in the like thus that I can, I do not find she's established past persecution. It appears she's premised her claim on arrest in 1983 while at the University of Christina as a student and then later in 1988 while in Tritograd both of these do appear to have come nexus to a political opinion and as such, it could possibly be related to a valid asylum claim. However, in the context in which the respondent indicates these events occurred, the mass demonstrations, I do not find that what occurred to the respondent to be of sufficient severity to be considered as past persecution.

Furthermore, she indicated in 1994 her husband was arrested in two occasions for failing to have his passport and

as a consequence of one of these searches an incident to his arrest it would appear that she entered into a scuffle with the policeman and resulted in a broken wrist. I do not find that relates at all to an asylum application. It does appear to be an act of brutality by the police if in fact it occurred in that context. And furthermore, in 1996, while returning with her friend it does appear that the two drunken individuals approached them were able to unfortunately assault and rape her friend. She was fortunately able to escape. Again, I do not find a nexus with any of the five basis for a valid asylum claim in this matter. I do believe the two women were merely targets of opportunity of two drunken men and they certainly were not attacked for any of the basis under which an asylum claim can be granted. Now with regard to the prior demonstrations, I do find as well, there has been a tremendous changed circumstance within the country of Yugoslavia. Her last arrest was in 1988 for demonstrating and since then communism such has toppled and the former Yugoslavia has been separated in to separate states and there is no indication that there would be any animus at this time against those who had protested against the former communist.

Inasmuch as the Court has found that she has failed to establish the lower burden required for asylum, it will necessarily follow that she has failed to establish the higher burden required for withholding of deportation.

VOLUNTARY DEPARTURE

The respondent has requested the privilege of voluntarily departing the United States in lieu of deportation. To qualify, she must have the means, be wiling and e a person of good moral character and is deserving of this relief and because to be present in the United States for one year prior to the service of the charging document. Having reviewed all these matters, I do find she merits this minimal form of relief and will be granted a period of two months.

ORDER

IT IS HEREBY ORDERED that the respondent's application for asylum and withholding of deportation be denied;

IT IS FURTHER ORDERED that the respondent be granted the privilege of voluntarily departing without expense to the United States Government on or before January 29, 1999, plus any extension or such conditions that my be granted by the District Director of the Immigration and Naturalization Service;

IT IS FURTHER ORDERED that if the respondent does not voluntarily depart the United States when and as required, or fails to post a $500 dollar departure bond by December 7, of 1998, the privilege of voluntary departure

shall be withdrawn without further notice or proceedings and the respondent shall be deported from the United States to Yugoslavia on the charge contained in the Notice to Appear.

/s/ J.F. Walsh

J.F. Walsh

Immigration Judge

APPENDIX D

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
DETROIT, MICHIGAN

ORDER, FILED DECEMBER 16, 2002

D-1 through D-2

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A75-306-294 - Detroit

In re: DOKIC, GROSA

IN REMOVAL PROCEEDINGS

APPEAL

FILED
Dec. 16, 2002

U.S. Department
of Justice
Immigration Court

ON BEHALF OF RESPONDENT: Weideman, Carl M.

ON BEHALF OF SERVICE: Rosario S. Shoudy, Assistant District Counsel

ORDER

PER CURIAM. We affirm the decision of the Immigration Judge. *See Matter of Burbano*, 20 I&N Dec. 872 (BIA 1994) (noting that adoption or affirmance of a decision of an Immigration judge, in who or in part, is "simply a statement that the Board's conclusions upon review of the record coincide with those the Immigration Judge articulated in his or her decision"). We agree with the Immigration Judge that the respondent failed to meet her burden of proof in establishing her eligibility for asylum. Furthermore, even if the respondent had established that her arrests in 1983 and 1988, and the general discrimination she experienced did rise

to the level of persecution, we find that there have been significant changes in Yugoslavia, such that the respondent would no longer have a well-founded fear of persecution upon her return home. See 8 C.F.R. § 208.13 (b)(1)(A); see also 8 C.F.R. § 3.1(d)(3)(iv) (allowing the Board to take administrative notice of commonly known facts such as current events or the contents of official documents); United States Department of State, Bureau of Democracy, Human Rights and Labor, Federal Republic of Yugoslavia-Country Reports on Human Rights Practices - 1002, at 2, 13 (March 4, 2002)(noting the significant improvement in the government's human rights record since the end of the Milosevic regime and further noting the creation of a multi-ethnic police force that has wide approval in the Albanian community). Accordingly, the appeal is dismissed.

FURTHER ORDER: Pursuant to the Immigration Judge's order and in accordance with our decision in *Matter of Chouliaris*, 16 I&N De. 168 (BIA 1977), the alien is permitted to depart from the United States voluntarily within 30 days from the date of this order or any extension beyond that time as may be granted by the district director, and in the event of failure to depart, the alien shall be deported as provided in the Immigration Judge's order.

/s/ Neil P. Miller
FOR THE BOARD